

The planning system 101

We have heard that many of you find the planning system is overly complicated and seems to be designed to wrap even good development in red tape. Unfortunately the rules that govern the planning system and the information we require is set by the State Government through legislation (primarily the Land Use Planning and Approvals Act 1993 or 'LUPAA' which you can find [here](#)). As a result the information required to assess a proposal cannot be changed by us. However we hope this introduction to the planning system will help you understand why it is needed, what it seeks to achieve and how it works so you can make (even) better decisions about how you use or develop your land.

The purpose of planning is to consider the impact that changing the use of land or constructing buildings or engineering works, (collectively known as 'development') will have on their surroundings. Planners are trained to carefully weigh up these impacts and seek to ensure they are not too detrimental on their surroundings. The impacts planners are required to consider include such things as:

- Is the proposed use of the land appropriate to the area?
- Will there be problems of noise, loss of privacy or overshadowing?
- Is a proposed development set far enough away from boundaries?
- Is a proposed building too high?
- Will a use or development generate too much traffic for the surrounding streets or roads?
- Will the proposed hours of operating of a use affect neighbours?
- Will the development adversely affect the areas built or landscape character, its habitat value or the ability of the neighbours to farm or conduct their business?
- Is it in a location where it is vulnerable to flooding, erosion or bushfire or other risk that may impact the wider community?

This is a small selection of the many issues that have to be considered and that is why planners are required to ask for so much information.

The hierarchy of Planning Controls





In order to ensure everyone is treated fairly and to provide a degree of certainty planners use a consistent set of rules to make their decisions. These rules are set in a hierarchy or 'framework'. At the top of this framework are state plans and policies that cover matters such as where the airports, ports and main roads go. Also set by the state government are the principles and tests for the municipalities approving planning proposals. These tests are set out in the LUPAA mentioned above. The Cradle Coast Regional Land Use Strategy or CCRLUS which you can find [here](#) works within the niche set for it by the state planning rules and applies those rules to the North West region. The Waratah-Wynyard Interim Planning Scheme 2013 (the scheme) applies these regional and state rules to local level. You can find the scheme [here](#). It is important to note the scheme can only do what the rules and priorities set out in the higher order strategies and plans allow it to do.

One of the principal roles of the planning scheme is to outline what type of development can go where. This is shown in a zoning map which covers all the land in the municipality. Each zone outlines what land uses and development is permissible in that zone, what may be permissible under certain circumstances (known as discretionary development) and what is prohibited. For example, in land in the General Residential Zone building a dwelling is 'no permit required', operating business and professional services may be permitted under the circumstances listed in the scheme and development other than the activities listed as permitted or discretionary are prohibited. The planners who consider these rules can help you refine your proposals to ensure they have the best chance of success.

From time to time the boundaries of the zonings are reviewed and sometimes changed to respond to different circumstances after careful studies are undertaken and the community is consulted. For example if a town had a fast growing population more land might be made available to residential development by increasing the area zoned for residential use. This process is known as rezoning and will require a 'planning scheme amendment'. There are many statutory requirements that need to be met to make such an amendment and this is usually not a challenge that would be undertaken lightly.

Understanding if you require a planning permit

Under most circumstances if you are seeking to build or change the use of land you will require a permit. If the building is evidently of a use and design that is permissible within the zoning and you can provide all the required information then it will be approved. However sometimes the application of these rules is governed by precedent and requires interpretation and weighing up the advantages and disadvantages of a proposal can be a complex matter. Consequently it is always best to discuss with us about the likelihood of success of your development plans and whether you need a planning permit for a particular kind of use or development, or to see if any exemptions apply.

If you are buying or leasing a property, make sure it can be used for what you want it for. Don't assume that you can start a business on a property just because there is already a business there. Also, don't assume that a planning permit application is not required simply because there are no building works proposed. Planning also considers the change of use of an existing building.

Please remember it is an offence to carry out any use or develop land which requires a planning permit without first obtaining a planning permit from Council.

Obtaining a planning permit

The process by which you may apply for a Planning Permit is set by legislation and has the following steps:

Pre application

A pre application meeting with Council can be very helpful in identifying the potential of your land for development and any challenges you will face. You need not bring finished plans to this meeting, only a plan or other indication of the land in question and your thoughts about what you are considering. Council are happy to provide this pre-lodgement advice free of charge. This can be done over the phone or face to face during Council's opening hours. To book an appointment please phone Council on (03) 6443 8333 or email your enquiry to townplanner@warwyn.tas.gov.au Consultation with your neighbours is also encouraged.

If your application is straightforward and, for example, involves a change of use with little structural alterations to the building, you may not need professional assistance. In many cases though, it is wise to get professional assistance with the application, especially where detailed drawings and/or site analysis is needed.

Lodgement

When you have decided that you wish to proceed with your development or change of use and have turned your intention into a plan you must lodge an application with Council. An application form needs to be filled in and submitted with plans of what is proposed and supporting documentation. A checklist of mandatory documents and information is provided as part of the Planning Permit Application Form.

Payment of the applicable fee will be required prior to assessment of the application commencing.

When your application is lodged with us it will be registered and allocated to a planner.

Request for more information

If we need more information in order to assess your application, we will request further information from you. As part of this process your planner may also raise design issues or other concerns, providing you an opportunity to address these issues that may make granting approval a smoother process.

Advertising

If your proposal could affect neighbouring houses, businesses, or properties, public notification of the application may be required. We will be in touch with you to arrange this process.

The public notification phase can involve notices by mail to neighbours which are sent by Council, signs on site which you are required to erect and maintain, and a notice in specified newspapers.

We place your application on our website during the notification period for interested parties to view. There is a period of 14 days in which interested people to make a representation which can be object to, or support, your application.

Referral

The Planning Scheme may specify that your application must be referred to a referral authority. For example we consult with Taswater to make sure that proposed dwellings in a General Residential Zone can be serviced by water and sewerage, as is required by the planning scheme. Referral authorities have xx days in which to respond to the referral.

Your planner may also seek advice from other departments within Council, such as Environmental Health, Infrastructure or Environment.

Assessment

The ability to assess your application lies with the Council. However if your development or proposed land use is permitted according to the scheme or is discretionary with no representations then your planner has delegated



authority to make an assessment. Your planner is legislatively obliged to consider your application according to the requirements of the Scheme, the LUPAA, and other regulations as well as advice from other departments, referral authorities and any objections received.

If your proposal is for a development or land use that is discretionary and we have received representations about it your planner will make a recommendation about your proposal to Council who will then make a decision. The application will be considered at the next available Council meeting

Decision

If we have all the information we require we will make a decision on your application within 42 statutory days, if we don't you can lodge an appeal with the Tasmanian Planning Commission (TPC).

There are three possible outcomes:

Planning Permit is granted;

Notice of Decision to issue a Planning Permit (this is only when objections are received);

Refusal to Grant a Planning Permit is issued.

Appeal

If we reject your proposal, you have 14 days following our decision to lodge an appeal with the Resource Management and Planning Appeal Tribunal (RMPAT) for a review.

If you disagree with us approving an application, you have 28 days from our decision to lodge an appeal with RMPAT for review.

You can find information about lodging an appeal on the RMPAT website www.rmpat.tas.gov.au.

Planning permission and building permission

You may need to get other approvals in addition to planning permit approval, such as building or plumbing approval. It is important to note planning approval and building approval are two separate processes. Often a particular use or development of land requires approvals under both processes. You will be required to get planning approval first before you can apply for building permission.

Building approval involves an assessment of a proposed use or development against the Building Code of Australia and the Plumbing Regulations, and considers issues such as (adopted from Glenorchy City Council Planning advice):

- Is the building soundly constructed?
- Have adequate fire protection measures been installed?
- Is the building capable of receiving adequate levels of light and ventilation?
- Is the building property sewerage and drained?
- Are the building's features safe for users?

The building and plumbing process may also involve a series of inspections at various stages of construction of a building to ensure that these issues have been addressed.